

APPENDIX A

REVISED TENTATIVE ORDER No. R2-2011-XXXX

AMENDMENT OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGERS WITH PRETREATMENT PROGRAM REQUIREMENTS

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter “Regional Water Board”), finds that:

- 1.** The Regional Water Board issued waste discharge requirements that serve as National Pollutant Discharge Elimination System (NPDES) permits for the dischargers listed in Table 1 (hereinafter “Dischargers”). These permits authorize the Dischargers to discharge treated effluent from their respective publicly owned treatment works (POTWs) to waters of the United States under specific conditions.
- 2.** POTWs collect wastewater from homes, commercial and industrial facilities, and transport it via the collection system to the treatment plant. Here, the POTW removes harmful organisms and other contaminants from the wastewater so it can be discharged safely into waters of the United States. Generally, POTWs are designed to treat domestic wastewater only. However, POTWs also receive wastewater from industrial (nondomestic) users. The pretreatment program aims to control pollutants from the nondomestic users that may pass through or interfere with POTW treatment processes or which may contaminate sewage sludge. In the San Francisco Bay Region, there are 28 POTWs with pretreatment programs.
- 3.** The USEPA formally delegated the Pretreatment Program to the State Water Resources Control Board and the Regional Water Boards on September 22, 1989. As of September 22, 1989, the Regional Water Board is the Approval Authority and is responsible for the review and approval of new and modified POTW Pretreatment Programs.
- 4.** In August 2001, the Regional Water Board developed the pretreatment program provisions as an attachment to centralize all pretreatment program requirements within an individual NPDES permit. In June 2006, as part of the Regional Water Board’s NPDES permit standardization efforts, the pretreatment program provisions became Attachment H. However, no substantial changes have been made to the pretreatment program provisions since August 2001.
- 5.** This Order amends the orders listed in Table 1 to replace the pretreatment program provisions contained in Attachment H to those orders with the revised version of Attachment H attached to this Order (hereinafter “new Attachment H”).
- 6.** The Regional Water Board revisions in the new Attachment H are both programmatic and non-programmatic as discussed below:
 - a.** Programmatic revisions

- 1) Attachment H, Provision 1 authorizes the Regional Water Board's Executive Officer to grant a short extension of no greater than six months beyond an original six-month period for implementation of a new federal pretreatment regulatory rule that may come into effect during the term of the Discharger's permit. This short extension would be granted if the Discharger demonstrates that it needs additional time to process local adoption of sewer use ordinance modifications or other pretreatment program substantial modifications. For example, this revision was included because it can take more than six months for the Discharger to complete the sewer use ordinance modification adoption process.
- 2) Appendix H-4 allows the Discharger to request a reduction in monitoring frequency. The Regional Water Board would consider the Discharger's request as part of the NPDES permit reissuance. Appendix H-4 sets forth criteria for when the Discharger may make the request (e.g., when results have been non-detect for past eight years), and a minimum monitoring frequency based on the number of significant industrial users in the Discharger's service area. This revision was included because it would eliminate unnecessary costs of monitoring for constituents that are not present in the Discharger's waste stream.
- 3) Appendix H-3 requires the Discharger to submit only electronic files of its pretreatment annual and semiannual reports in lieu of a hard copy. This new requirement will reduce paper use and mailing costs, and help facilitate the Regional Water Board's paperless office efforts.

b. Non-programmatic revisions

- 1) Reduce redundancy in the pretreatment annual and semiannual reporting requirements, and
 - 2) Correct outdated references and grammatical errors, and revise formatting for clarity.
7. This Order is exempt from the provisions of the California Environmental Quality Act pursuant to California Water Code §13389.
 8. The Regional Water Board notified the Dischargers and interested agencies and persons of its intent to consider adoption of this Order, and provided an opportunity to submit written comments.
 9. In a public meeting, the Regional Water Board heard and considered all comments pertaining to this Order.

TABLE 1
DISCHARGERS SUBJECT TO THIS ORDER

Discharger	Permit Number	Order Number	Effective Date
American Canyon, City of	CA0038768	R2-2006-0036	7/1/06
Benicia, City of	CA0038091	R2-2008-0014	6/1/08
Burlingame, City of	CA0037788	R2-2008-0008	4/1/08
Central Contra Costa Sanitary District	CA0037648	R2-2007-0008	4/1/07
Central Marin Sanitary Agency	CA0038628	R2-2007-0007	4/1/07
Delta Diablo Sanitation District	CA0038547	R2-2009-0018	5/1/09
Dublin San Ramon Services District	CA0037613	R2-2006-0054	10/1/06
East Bay Municipal Utilities District, Special District No. 1	CA0037702	R2-2010-0060	5/1/10
Fairfield-Suisun Sewer District	CA0038024	R2-2009-0039	6/1/09
Hayward, City of	CA0037869	R2-2006-0053	10/1/06
Livermore, City of	CA0038008	R2-2006-0055	10/1/06
Millbrae, City of	CA0037532	R2-2008-0071	10/1/08
Napa Sanitation District	CA0037575	R2-2011-0007	4/1/11
Novato Sanitary District	CA0037958	R2-2010-0074	7/1/10
Oro Loma Sanitary District	CA0037869	R2-2006-0053	10/1/06
Palo Alto, City of	CA0037384	R2-2009-0032	6/1/09
Petaluma, City of	CA0037810	R2-2011-0003	3/1/11
Richmond, City of	CA0038539	R2-2008-0003	4/1/08
San Francisco, City and County of (Oceanside Plant)	CA0037681	R2-2009-0062	10/1/09
San Francisco, City and County of (Southeast Plant)	CA0037664	R2-2008-0007	4/1/08
San Jose and Santa Clara, Cities of	CA0037842	R2-2009-0038	6/1/09
San Leandro, City of	CA0037869	R2-2006-0053	10/1/06
San Mateo, City of	CA0037541	R2-2007-0075	2/1/08
South Bayside System Authority	CA0038369	R2-2007-0006	4/1/07
South San Francisco and San Bruno, Cities of	CA0038130	R2-2008-0094	1/1/09
Sunnyvale, City of	CA0037621	R2-2009-0061	10/1/09
Union Sanitary District	CA0037869	R2-2006-0053	10/1/06
Vallejo Sanitation and Flood Control District	CA0037699	R2-2006-0056	10/1/06
West County Wastewater District	CA0038539	R2-2008-0003	4/1/08

IT IS HEREBY ORDERED, pursuant to the provisions of California Water Code Division 7 and regulations adopted thereunder, and the provisions of the federal Clean Water Act and regulations and guidelines adopted thereunder, that the Dischargers listed in Table 1 shall comply with their respective orders listed in Table 1, as amended by this Order.

1. The provisions of the new Attachment H attached to this Order shall replace Attachment H for the orders listed in Table 1.
2. In the orders listed in Table 1, references to the new Attachment H shall replace all references to Attachment H.
3. This Order shall become effective on April 1, 2011.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on <DATE>.

Bruce H. Wolfe
Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ATTACHMENT H
PRETREATMENT PROGRAM PROVISIONS

For

NPDES POTW WASTEWATER DISCHARGE PERMITS

March 2011

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Attachment H: Pretreatment Program Provisions

1. The Discharger shall be responsible and liable for the performance of all Control Authority pretreatment requirements contained in 40 CFR 403, including any regulatory revisions to Part 403. Where a Part 403 revision is promulgated after the effective date of the Discharger’s permit and places mandatory actions upon the Discharger as Control Authority but does not specify a timetable for completion of the actions, the Discharger shall complete the required actions within six months from the issuance date of this permit or six months from the effective date of the Part 403 revisions, whichever comes later.

(If the Discharger cannot complete the required actions within the above six-month period due to the need to process local adoption of sewer use ordinance modifications or other substantial pretreatment program modifications, the Discharger shall notify the Executive Officer in writing at least 60 days prior to the six-month deadline. The written notification shall include a summary of completed required actions, an explanation for why the six-month deadline cannot be met, and a proposed timeframe to complete the rest of the required actions as soon as practical but not later than within twelve months of the issuance date of this permit or twelve months of the effective date of the Part 403 revisions, whichever comes later. The Executive Officer will notify the Discharger in writing within 30 days of receiving the request if the extension is not approved.)

The United States Environmental Protection Agency (USEPA), the State and/or other appropriate parties may initiate enforcement action against a nondomestic user for noncompliance with applicable standards and requirements as provided in the Clean Water Act (Act).

2. The Discharger shall enforce the requirements promulgated under Sections 307(b), 307(c), 307(d) and 402(b) of the Act with timely, appropriate and effective enforcement actions. The Discharger shall cause nondomestic users subject to Federal Categorical Standards to achieve compliance no later than the date specified in those requirements or, in the case of a new nondomestic user, upon commencement of the discharge.
3. The Discharger shall perform the pretreatment functions as required in 40 CFR 403 and amendments or modifications thereto including, but not limited to:
 - A) Implement the necessary legal authorities to fully implement the pretreatment regulations as provided in 40 CFR 403.8(f)(1);
 - B) Implement the programmatic functions as provided in 40 CFR 403.8(f)(2);
 - C) Publish an annual list of nondomestic users in significant noncompliance as provided per 40 CFR 403.8(f)(2)(viii);
 - D) Provide for the requisite funding and personnel to implement the pretreatment program as provided in 40 CFR 403.8(f)(3); and
 - E) Enforce the national pretreatment standards for prohibited discharges and categorical standards as provided in 40 CFR 403.5 and 403.6, respectively.

4. The Discharger shall submit annually a report to USEPA Region 9, the State Water Board and the Regional Water Board describing its pretreatment program activities over the previous calendar year. In the event that the Discharger is not in compliance with any conditions or requirements of the Pretreatment Program, the Discharger shall also include the reasons for noncompliance and a plan and schedule for achieving compliance. The report shall contain, but is not limited to, the information specified in Appendix H-1 entitled, "Requirements for Pretreatment Annual Reports." The annual report is due each year on February 28.
5. The Discharger shall submit a pretreatment semiannual report to USEPA Region 9, the State Water Board and the Regional Water Board describing the status of its significant industrial users (SIUs). The report shall contain, but is not limited to, information specified in Appendix H-2 entitled, "Requirements for Pretreatment Semiannual Reports." The semiannual report is due July 31 for the period January through June. The information for the period July through December of each year shall be included in the Annual Report identified in Appendix H-1. The Executive Officer may exempt the Discharger from the semiannual reporting requirements on a case by case basis subject to State Water Board and USEPA's comment and approval.
6. The Discharger shall conduct the monitoring of its treatment plant's influent, effluent, and sludge (biosolids) as described in Appendix H-4 entitled, "Requirements for Influent, Effluent and Sludge (Biosolids) Monitoring." (The term "biosolids," as used in this Attachment, shall have the same meaning as wastewater treatment plant "sludge" and will be used from this point forward.) The Discharger shall evaluate the results of the sampling and analysis during the preparation of the semiannual and annual reports to identify any trends. Signing the certification statement used to transmit the reports shall be deemed to certify the Discharger has completed this data evaluation. A tabulation of the data shall be included in the pretreatment annual report as specified in Appendix H-4. The Executive Officer may require more or less frequent monitoring on a case by case basis.

APPENDIX H-1

REQUIREMENTS FOR PRETREATMENT ANNUAL REPORTS

The Pretreatment Annual Report is due each year on February 28 and shall contain activities conducted during the previous calendar year. The purpose of the Annual Report is to:

- Describe the status of the Discharger's pretreatment program; and
- Report on the effectiveness of the program, as determined by comparing the results of the preceding year's program implementation.

The report shall contain, at a minimum, the following information:

1) **Cover Sheet**

The cover sheet shall include:

- A) The name(s) and National Pollutant Discharge Elimination System (NPDES) permit number(s) of the Discharger(s) that is part of the Pretreatment Program;
- B) The name, address and telephone number of a pretreatment contact person;
- C) The period covered in the report;
- D) A statement of truthfulness; and
- E) The dated signature of a principal executive officer, ranking elected official, or other duly authorized employee who is responsible for overall operation of the Publicly Owned Treatment Works (POTW) (40 CFR 403.12(m)).

2) **Introduction**

This section shall include:

- A) Any pertinent background information related to the Discharger and/or the nondomestic user base of the area;
- B) List of applicable interagency agreements used to implement the Discharger's pretreatment program (e.g., Memoranda of Understanding (MOU) with satellite sanitary sewer collection systems); and
- C) A status summary of the tasks required by a Pretreatment Compliance Inspection (PCI), Pretreatment Compliance Audit (PCA), Cleanup and Abatement Order (CAO), or other pretreatment-related enforcement actions required by the Regional Water Board or the USEPA. A more detailed discussion can be referenced and included in the section entitled, "Program Changes," if needed.

3) Definitions

This section shall include a list of key terms and their definitions that the Discharger uses to describe or characterize elements of its pretreatment program, or the Discharger may provide a reference to its website if the applicable definitions are available on-line.

4) Discussion of Upset, Interference and Pass Through

This section shall include a discussion of Upset, Interference or Pass Through incidents, if any, at the Discharger's treatment plant(s) that the Discharger knows of or suspects were caused by nondomestic user discharges. Each incident shall be described, at a minimum, consisting of the following information:

- A) A description of what occurred;
- B) A description of what was done to identify the source;
- C) The name and address of the nondomestic user responsible;
- D) The reason(s) why the incident occurred;
- E) A description of the corrective actions taken; and
- F) An examination of the local and federal discharge limits and requirements for the purposes of determining whether any additional limits or changes to existing requirements may be necessary to prevent other Upset, Interference or Pass Through incidents.

5) Influent, Effluent and Biosolids Monitoring Results

The Discharger shall evaluate the influent, effluent and biosolids monitoring results as specified in Appendix H-4 in preparation of this report. The Discharger shall retain the analytical laboratory reports with the Quality Assurance and Quality Control (QA/QC) data validation and make these reports available upon request.

This section shall include:

- A) Description of the sampling procedures and an analysis of the results (see Appendix H-4 for specific requirements);
- B) Tabular summary of the compounds detected (compounds measured above the detection limit for the analytical method used) for the monitoring data generated during the reporting year as specified in Appendix H-4;
- C) Discussion of the investigation findings into any contributing sources of the compounds that exceed NPDES limits; and
- D) Graphical representation of the influent and effluent metal monitoring data for the past five years with a discussion of any trends.

6) Inspection, Sampling and Enforcement Programs

This section shall include at a minimum the following information:

- A) Inspections: Summary of the inspection program (e.g., criteria for determining the frequency of inspections and inspection procedures);
- B) Sampling Events: Summary of the sampling program (e.g., criteria for determining the frequency of sampling and chain of custody procedures); and
- C) Enforcement: Summary of Enforcement Response Plan (ERP) implementation including dates for adoption, last revision and submission to the Regional Water Board.

7) Updated List of Regulated SIUs

This section shall contain a list of all of the federal categories that apply to SIUs regulated by the Discharger. The specific categories shall be listed including the applicable 40 CFR subpart and section, and pretreatment standards (both maximum and average limits). Local limits developed by the Discharger shall be presented in a table including the applicability of the local limits to SIUs. If local limits do not apply uniformly to SIUs, specify the applicability in the tables listing the categorical industrial users (CIUs) and non-categorical SIUs. Tables developed in Sections 7A and 7B can be used to present or reference this information.

- A) CIUs - Include a table that alphabetically lists the CIUs regulated by the Discharger as of the end of the reporting period. This list shall include:
 - i. Name;
 - ii. Address;
 - iii. Applicable federal category(ies);
 - iv. Reference to the location where the applicable Federal Categorical Standards are presented in the report;
 - v. Identify all deletions and additions keyed to the list submitted in the previous annual report. All deletions shall be briefly explained (e.g., closure, name change, ownership change, reclassification, declassification); and
 - vi. Information, calculations and data used to determine the limits for those CIUs for which a combined waste stream formula is applied.
- B) Non-categorical SIUs - Include a table that alphabetically lists the SIUs not subject to any federal categorical standards that were regulated by the Discharger as of the end of the reporting period. This list shall include:
 - i. Name;
 - ii. Address;

- iii. A brief description of the type of business;
- iv. Identify all deletions and additions keyed to the list submitted in the previous annual report. All deletions shall be briefly explained (e.g., closure, name change, ownership change, reclassification, declassification); and
- v. Indicate the applicable discharge limits (e.g., different from local limits) to which the SIUs are subject and reference to the location where the applicable limits (e.g., local discharge limits) are presented in the report.

8) SIU (categorical and non-categorical) Compliance Activities

The information required in this section may be combined in the table developed in Section 7 above.

- A) **Inspection and Sampling Summary:** This section shall contain a summary of all the SIU inspections and sampling activities conducted by the Discharger and sampling activities conducted by the SIU over the reporting year to gather information and data regarding SIU compliance. The summary shall include:
 - i. The number of inspections and sampling events conducted for each SIU by the Discharger;
 - ii. The number of sampling events conducted by the SIU. Identify SIUs that are operating under an approved Total Toxic Organic Management Plan;
 - iii. The quarters in which the above activities were conducted; and
 - iv. The compliance status of each SIU, delineated by quarter, and characterized using all applicable descriptions as given below:
 - a. Consistent compliance;
 - b. Inconsistent compliance;
 - c. Significant noncompliance;
 - d. On a compliance schedule to achieve compliance (include the date final compliance is required);
 - e. Not in compliance and not on a compliance schedule; and
 - f. Compliance status unknown, and why not.
- B) **Enforcement Summary:** This section shall contain a summary of SIU compliance and enforcement activities during the reporting year. The summary may be included in the summary table developed in section 8A and shall include the names and addresses of all SIUs affected by the actions identified below. For each notice specified in enforcement action "i" through "iv," indicate whether it was for an infraction of a federal or local standard/limit or requirement.

- i. Warning letters or notices of violations regarding SIUs' apparent noncompliance with or violation of any federal pretreatment categorical standards and/or requirements, or local limits and/or requirements;
 - ii. Administrative Orders regarding the SIUs' apparent noncompliance with or violation of any federal pretreatment categorical standards and/or requirements, or local limits and/or requirements;
 - iii. Civil actions regarding the SIUs' apparent noncompliance with or violation of any federal pretreatment categorical standards and/or requirements, or local limits and/or requirements;
 - iv. Criminal actions regarding the SIUs' apparent noncompliance with or violation of any federal pretreatment categorical standards and/or requirements, or local limits and/or requirements;
 - v. Assessment of monetary penalties. Identify the amount of penalty in each case and reason for assessing the penalty;
 - vi. Order to restrict/suspend discharge to the Discharger; and
 - vii. Order to disconnect the discharge from entering the Discharger.
- C) **July-December Semiannual Data:** For SIU violations/noncompliance during the semiannual reporting period from July 1 through December 31, provide the following information:
- i. Name and facility address of the SIU;
 - ii. Indicate if the SIU is subject to Federal Categorical Standards; if so, specify the category including the subpart that applies;
 - iii. For SIUs subject to Federal Categorical Standards, indicate if the violation is of a categorical or local standard;
 - iv. Indicate the compliance status of the SIU for the two quarters of the reporting period; and
 - v. For violations/noncompliance identified in the reporting period, provide:
 - a. The date(s) of violation(s);
 - b. The parameters and corresponding concentrations exceeding the limits and the discharge limits for these parameters; and
 - c. A brief summary of the noncompliant event(s) and the steps that are being taken to achieve compliance.

9) Baseline Monitoring Report Update

This section shall provide a list of CIUs added to the pretreatment program since the last annual report. This list of new CIUs shall summarize the status of the respective Baseline Monitoring Reports (BMR). The BMR must contain the information specified in 40 CFR 403.12(b). For each new CIU, the summary shall indicate when the BMR was due; when the CIU was notified by the Discharger of this requirement; when the CIU submitted the report; and/or when the report is due.

10) Pretreatment Program Changes

This section shall contain a description of any significant changes in the Pretreatment Program during the past year including, but not limited to:

- A) Legal authority;
- B) Local limits;
- C) Monitoring/ inspection program and frequency;
- D) Enforcement protocol;
- E) Program's administrative structure;
- F) Staffing level;
- G) Resource requirements;
- H) Funding mechanism;
- I) If the manager of the Discharger's pretreatment program changed, a revised organizational chart shall be included; and
- J) If any element(s) of the program is in the process of being modified, this intention shall also be indicated.

11) Pretreatment Program Budget

This section shall present the budget spent on the Pretreatment Program. The budget, either by the calendar or fiscal year, shall show the total expenses required to implement the pretreatment program. A brief discussion of the source(s) of funding shall be provided. In addition, the Discharger shall make available upon request specific details on its pretreatment program expense amounts such as for personnel, equipment, and chemical analyses.

12) Public Participation Summary

This section shall include a copy of the public notice as required in 40 CFR 403.8(f)(2)(viii). If a notice was not published, the reason shall be stated.

13) **Biosolids Storage and Disposal Practice**

This section shall describe how treated biosolids are stored and ultimately disposed. If a biosolids storage area is used, it shall be described in detail including its location, containment features and biosolids handling procedures.

14) **Other Pollutant Reduction Activities**

This section shall include a brief description of any programs the Discharger implements to reduce pollutants from nondomestic users that are not classified as SIUs. If the Discharger submits any of this program information in an Annual Pollution Prevention Report, reference to this other report shall satisfy this reporting requirement.

15) **Other Subjects**

Other information related to the Pretreatment Program that does not fit into any of the above categories should be included in this section.

16) **Permit Compliance System (PCS) Data Entry Form**

The annual report shall include the PCS Data Entry Form. This form shall summarize the enforcement actions taken against SIUs in the past year. This form shall include the following information:

- A) Discharger's name,
- B) NPDES Permit number,
- C) Period covered by the report,
- D) Number of SIUs in significant noncompliance (SNC) that are on a pretreatment compliance schedule,
- E) Number of notices of violation and administrative orders issued against SIUs,
- F) Number of civil and criminal judicial actions against SIUs,
- G) Number of SIUs that have been published as a result of being in SNC, and
- H) Number of SIUs from which penalties have been collected.

APPENDIX H-2**REQUIREMENTS FOR JANUARY-JUNE PRETREATMENT SEMIANNUAL REPORT**

The pretreatment semiannual report is due on July 31 for pretreatment program activities conducted from January through June unless an exception has been granted by the Regional Water Board's Executive Officer (e.g., pretreatment programs without any SIUs may qualify for an exception to the pretreatment semiannual report). Pretreatment activities conducted from July through December of each year shall be included in the Pretreatment Annual Report as specified in Appendix H-1. The pretreatment semiannual report shall contain, at a minimum the following information:

1) Influent, Effluent and Biosolids Monitoring

The influent, effluent and biosolids monitoring results shall be evaluated in preparation of this report. The Discharger shall retain analytical laboratory reports with the QA/QC data validation and make these reports available upon request. The Discharger shall also make available upon request a description of its influent, effluent and biosolids sampling procedures. Violations of any parameter that exceed NPDES limits shall be identified and reported. The contributing source(s) of the parameters that exceed NPDES limits shall be investigated and discussed.

2) Significant Industrial User Compliance Status

This section shall contain a list of all SIUs that were not in consistent compliance with all pretreatment standards/limits or requirements for the reporting period. For the reported SIUs, the compliance status for the previous semiannual reporting period shall be included. Once the SIU has determined to be out of compliance, the SIU shall be included in subsequent reports until consistent compliance has been achieved. A brief description detailing the actions that the SIU undertook to come back into compliance shall be provided.

For each SIU on the list, the following information shall be provided:

- A) Name and facility address of the SIU;
- B) Indicate if the SIU is subject to Federal Categorical Standards; if so, specify the category including the subpart that applies;
- C) For SIUs subject to Federal Categorical Standards, indicate if the violation is of a categorical or local standard;
- D) Indicate the compliance status of the SIU for the two quarters of the reporting period; and
- E) For violations/noncompliance identified in the reporting period, provide:
 - i. The date(s) of violation(s);

- ii. The parameters and corresponding concentrations exceeding the limits and the discharge limits for these parameters; and
- iii. A brief summary of the noncompliant event(s) and the steps that are being taken to achieve compliance.

3) **Discharger's Compliance with Pretreatment Program Requirements**

This section shall contain a discussion of the Discharger's compliance status with the Pretreatment Program Requirements as indicated in the latest Pretreatment Compliance Audit (PCA) Report or Pretreatment Compliance Inspection (PCI) Report. It shall contain a summary of the following information:

- A) Date of latest PCA or PCI report;
- B) Date of the Discharger's response;
- C) List of unresolved issues; and
- D) Plan(s) and schedule for resolving the remaining issues.

APPENDIX H-3

SIGNATURE REQUIREMENTS FOR PRETREATMENT ANNUAL AND SEMIANNUAL REPORTS

The pretreatment annual and semiannual reports shall be signed by a principal executive officer, ranking elected official, or other duly authorized employee who is responsible for the overall operation of the Discharger [POTW - 40 CFR 403.12(m)]. Signed copies of the reports shall be submitted to the USEPA, the State Water Board, and the Regional Water Board at the following addresses unless the Discharger is instructed by any of these agencies to submit electronic copies of the required reports:

Pretreatment Program Reports
Clean Water Act Compliance Office (WTR-7)
Water Division
Pacific Southwest Region
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105-3901

Submit electronic copies only to State and Regional Water Boards:

Pretreatment Program Manager
Regulatory Unit
State Water Resources Control Board
Division of Water Quality-15th Floor
1001 I Street
Sacramento, CA 95814
DMR@waterboards.ca.gov
NPDES_Wastewater@waterboards.ca.gov

Pretreatment Coordinator
NPDES Wastewater Division
SF Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

(Submit the report as a single Portable Document Format (PDF) file to the Pretreatment Coordinator's folder in the Regional Water Board's File Transfer Protocol (FTP) site. The instructions for using the FTP site can be found at the following internet address:
http://www.waterboards.ca.gov/sanfranciscobay/publications_forms/documents/FTP_Discharger_Guide-12-2010.pdf.)

APPENDIX H-4

REQUIREMENTS FOR INFLUENT, EFFLUENT AND BIOSOLIDS MONITORING

The Discharger shall conduct sampling of its treatment plant’s influent, effluent and biosolids at the frequency shown in **the pretreatment requirements table** of the Monitoring and Reporting Program (MRP, Attachment E). When sampling periods coincide, one set of test results, reported separately, may be used for those parameters that are required to be monitored by both the influent and effluent monitoring requirements of the MRP and the Pretreatment Program. The Pretreatment Program monitoring reports as required in Appendices H-1 and H-2 shall be transmitted to the Pretreatment Program Coordinator.

1. Reduction of Monitoring Frequency

The minimum frequency of Pretreatment Program influent, effluent, and biosolids monitoring shall be dependant on the number of SIUs identified in the Discharger’s Pretreatment Program as indicated in Table H-1.

Table H-1: Minimum Frequency of Pretreatment Program Monitoring	
Number of SIUs	Minimum Frequency
≤ 5	Once every five years
> 5 and < 50	Once every year
≥ 50	Twice per year

If the Discharger’s required monitoring frequency is greater than the minimum specified in Table H-1, the Discharger may request a reduced monitoring frequency for that constituent(s) as part of its application for permit reissuance if it meets the following criteria:

The monitoring data for the constituent(s) consistently show non-detect (ND) levels for the effluent monitoring and very low (i.e., near ND) levels for influent and biosolids monitoring for a minimum of eight previous years’ worth of data.

The Discharger’s request shall include tabular summaries of the data and a description of the trends in the industrial, commercial, and residential customers in the Discharger’s service area that demonstrate control over the sources of the constituent(s). The Regional Water Board may grant a reduced monitoring frequency in the reissued permit after considering the information provided by the Discharger and any other relevant information.

2. Influent and Effluent Monitoring

The Discharger shall monitor for the parameters using the required sampling and test methods listed in **the pretreatment table** of the MRP. Any test method substitutions must have received prior written Executive Officer approval. Influent and effluent sampling locations shall be the same as those sites specified in the MRP.

The influent and effluent samples should be taken at staggered times to account for treatment plant detention time. Appropriately staggered sampling is considered consistent with the requirement for collection of effluent samples coincident with influent

samples in Section III.A.3.a(2) of Attachment D. All samples must be representative of daily operations. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. For effluent monitoring, the reporting limits for the individual parameters shall be at or below the minimum levels (MLs) as stated in the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (2000) [also known as the State Implementation Policy (SIP)]; any revisions to the MLs shall be adhered to. If a parameter does not have a stated ML, then the Discharger shall conduct the analysis using the lowest commercially available and reasonably achievable detection levels.

The following report elements should be used to submit the influent and effluent monitoring results. A similarly structured format may be used but will be subject to Regional Water Board approval. The monitoring reports shall be submitted with the Pretreatment Annual Report identified in Appendix H-1.

- A) Sampling Procedures, Sample Dechlorination, Sample Compositing, and Data Validation (applicable quality assurance/quality control) shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. The Discharger shall make available upon request its sampling procedures including methods of dechlorination, compositing, and data validation.
- B) A tabulation of the test results for the detected parameters shall be provided.
- C) Discussion of Results – The report shall include a complete discussion of the test results for the detected parameters. If any pollutants are detected in sufficient concentration to upset, interfere or pass through plant operations, the type of pollutant(s) and potential source(s) shall be noted, along with a plan of action to control, eliminate, and/or monitor the pollutant(s). Any apparent generation and/or destruction of pollutants attributable to chlorination/dechlorination sampling and analysis practices shall be noted.

3. **Biosolids Monitoring**

Biosolids should be sampled in a manner that will be representative of the biosolids generated from the influent and effluent monitoring events except as noted in (C) below. The same parameters required for influent and effluent analysis shall be included in the biosolids analysis. The biosolids analyzed shall be a composite sample of the biosolids for final disposal consisting of:

- A) Biosolids lagoons – 20 grab samples collected at representative equidistant intervals (grid pattern) and composited as a single grab, or
- B) Dried stockpile – 20 grab samples collected at various representative locations and depths and composited as a single grab, or
- C) Dewatered biosolids - daily composite of 4 representative grab samples each day for 5 days taken at equal intervals during the daily operating shift taken from a) the dewatering units or b) each truckload, and shall be combined into a single 5-day composite.

The USEPA manual, POTW Sludge Sampling and Analysis Guidance Document, August 1989, containing detailed sampling protocols specific to biosolids is recommended as a guidance for sampling procedures. The USEPA manual Analytical Methods of the National Sewage Sludge Survey, September 1990, containing detailed analytical protocols specific to biosolids, is recommended as a guidance for analytical methods.

In determining if the biosolids are a hazardous waste, the Discharger shall adhere to Article 2, "Criteria for Identifying the Characteristics of Hazardous Waste," and Article 3, "Characteristics of Hazardous Waste," of Title 22, California Code of Regulations, sections 66261.10 to 66261.24 and all amendments thereto.

The following report elements should be used to submit the biosolids monitoring results. A similarly structured form may be used but will be subject to Regional Water Board approval. The results shall be submitted with the Pretreatment Annual Report identified in Appendix H-1.

- Sampling Procedures and Data Validation (applicable quality assurance/quality control) shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. The Discharger shall make available upon request its biosolids sampling procedures and data validation methods.
- Test Results – Tabulate the test results for the detected parameters and include the percent solids.
- Discussion of Results – Include a complete discussion of test results for the detected parameters. If the detected pollutant(s) is reasonably deemed to have an adverse effect on biosolids disposal, a plan of action to control, eliminate, and/or monitor the pollutant(s) and the known or potential source(s) shall be included. Any apparent generation and/or destruction of pollutants attributable to chlorination/dechlorination sampling and analysis practices shall be noted.

The Discharger shall also provide a summary table presenting any influent, effluent or biosolids monitoring data for non-priority pollutants that the Discharger believes may be causing or contributing to interference, pass through or adversely impacting biosolids quality.

APPENDIX B

California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland CA 94612

Sent via email to

MChee@waterboards.ca.gov

GKathuria@waterboards.ca.gov

Re: Tentative Order R2-2011-XXXX, Amendment of Waste Discharge Requirements for Dischargers with Pretreatment Program Requirements

Dear Mr. Chee and Ms. Kathuria:

Thank you for meeting with us, and for considering our comments on the Amendment of Waste Discharge Requirements for Dischargers with Pretreatment Program Requirements, Tentative Order (“TO”). We are submitting these comments on behalf of San Francisco Baykeeper (“Baykeeper”) and our 2,300 members. In general, we believe that the proposed changes add clarity and efficiency to Attachment H, which Baykeeper supports. The comments provided, below, address the few concerns we have with proposed substantive and programmatic revisions in the TO.

1. Compliance Period

The TO states that the Attachment H revisions are needed to grant a compliance period and extension option “for implementation of a new federal pretreatment regulatory rule that may come into effect.” (TO at 2.) However, the new Attachment H would go beyond revisions that “may come into effect,” and could be read to apply to *existing* regulations, stating that the discharger has six months to comply “[w]here Part 403 or subsequent revision places mandatory actions upon the Discharger . . .” (Attachment H at H-1.) By applying the compliance time period to “Part 403 *or* subsequent revision,” (emphasis added) this revision to Attachment H is broader than the scenario described in the TO. If the purpose of the revised Attachment H is to provide existing permittees an additional six or twelve months to comply with *existing* requirements, the TO should be revised and recirculated to provide the public with the appropriate context to comment on the proposed permit revisions. Otherwise, Attachment H should be revised to only apply a new compliance period to regulatory requirements that have yet-to-be adopted.

In addition, the TO provides only one explanation for the proposed change to include an optional six month extension: “because it can take more than 6 months for the Discharger to complete the ordinance process.” (TO at 2.) However, the revised Attachment H would grant an extension under a broader set of circumstances, “due to sewer use ordinance modifications *or* other substantial pretreatment program modifications.” (emphasis added.) Such “other substantial pretreatment program modifications” goes far beyond time needed merely for “ordinance modifications.” Again, if the purpose of the Appendix H revisions is to provide extensions for

situations other than ordinance adoption delays, the TO should so state this purpose, for public review and comment. Otherwise, Attachment H should be revised to only provide an extension option for necessary delays in an ordinance adoption process, and not for more general “substantial pretreatment program modifications.”

2. Enforcement

Section 1, paragraph 3, should be revised to say “The USEPA, ~~and/or,~~ the State, and/or other appropriate parties, may initiate enforcement action against an Industrial User (IU) for noncompliance with applicable standards and requirements as provided in the Act.” This revision provides consistency with the preceding sentence in the paragraph, and consistency with the Clean Water Act.

3. Monitoring and Reporting

Baykeeper understands the need to cut down on unnecessary and voluminous paper work, and, therefore, the efficiencies gained by the proposed changes to the reporting requirements in revised Appendix H. While we are supportive of the revised reporting requirements, we would propose, for the sake of clarity and good recordkeeping, that Appendix H be further revised to state that each agency must maintain, and make publically available upon request, the detailed information previously required to be submitted via report. (See deleted information in Attachment H at H-5, H-6, H-8, H-9, H-10, H-14, and H-15.) We request this revision simply so that, by deleting the duty to provide this information in a report, the amendment to Appendix H is not read to change the requirement that such reports be based on such detailed information, and that such information must be available upon request to verify the accuracy of any report.

Thank you sincerely for your consideration of these comments.



Jason Flanders
Staff Attorney, San Francisco Baykeeper



January 19, 2010

Mr. Michael Chee
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite #1400
Oakland, CA 94612

Subject: Comments on TO Amending Pretreatment Requirements in NPDES Permits

Dear Mr. Chee:

The City of Sunnyvale submits the following comments on the Tentative Order (TO) Amending Pretreatment Requirements in NPDES Permits dated December 20, 2010. The City's staff participated in the BACWA workgroup that initiated the effort to streamline Pretreatment reporting requirements and coordinated with the Regional Water Board staff. The additional changes proposed in this letter are of a minor editorial nature, and are intended for purposes of consistency or clarification only.

1) Appendix H-1, first sentence, change February 28th to the last day of February each year to be consistent with Attachment H, Section 4 last sentence. On leap years these two sections would be in conflict of a due date.

"The Pretreatment Annual Report is due each year on the last day of February, and shall contain activities conducted during the previous calendar year."

Deleted: 28th

2) Appendix H-2, Section 2, second sentence add "semiannual" to describe the reporting period. The previous reporting period is the Annual Report and may be mistaken that the entire previous year must be reported.

"For the reported SIUs, the compliance status for the previous semiannual reporting period shall be included."

3) Appendix H-4, Section 2, revise title to "Influent and Effluent Monitoring" instead of "Required Monitoring Test Methods". This title is a better description of the section since all but the first two sentences are specific to influent and effluent monitoring. The section also discusses sampling procedures, data validation and results in addition to the test methods. The proposed section title is consistent with the original title.

"2. Influent and Effluent Monitoring"

Deleted: Required

Deleted: Test Methods

4) Appendix H-4, Section 2, second paragraph change "sampled" to "samples".

ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
TDD (408) 730-7501

"The influent and effluent samples should be taken during the same 24-hour period."

Deleted: sampled

5) Appendix H-4, Section 2, third paragraph change "report" to "results". Using the word "report" gives the impression a separate Influent and Effluent Monitoring Report is required, rather than including the results as part of the Pretreatment Annual Report, or that the laboratory reports should be submitted, which is inconsistent with the Annual Reporting requirements in Appendix H-1 Section 5.

"The following report elements should be used to submit the influent and effluent monitoring results. A similarly structured format may be used but will be subject to Regional Water Board approval. The monitoring results shall be submitted with the Pretreatment Annual Report identified in Appendix H-1."

Deleted: report

Deleted: reports

6) Appendix H-4, Section 3, second sentence revise to be consistent with the influent and effluent monitoring section. The City of Sunnyvale's biosolids pretreatment monitoring requirements in the Permit's Monitoring and Reporting Program (MRP) are different than the influent and effluent requirements.

"The Discharger shall monitor biosolids for the parameters listed in the pretreatment table of the MRP."

Deleted: The sample parameters required for influent and effluent analysis shall be included in the biosolids analysis.

7) Appendix H-4, Section 3, seventh paragraph change "report" to "results". Using the word "report" gives the impression a separate Biosolids Monitoring Report is required, rather than including the biosolids monitoring results as part of the Pretreatment Annual Report.

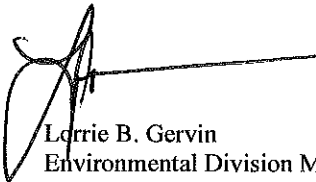
"The following report elements should be used to submit the biosolids monitoring results. A similarly structured form may be used but will be subject to Regional Water Board approval. The results shall be submitted with the Pretreatment Annual Report identified in Appendix H-1."

Deleted: report

Deleted: report

Thank you for the opportunity to comment on the Tentative Order. If you have any questions, please contact Steve Schmidt, Pretreatment Program Manager at (408) 730-7704.

Very truly yours,



Lorrie B. Gervin
Environmental Division Manager
Department of Public Works

cc: EOA, Inc.

January 27, 2010

Mr. Michael Chee
San Francisco Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Comments on Tentative Order Amending Pretreatment Requirements in NPDES Permits to Appendix H

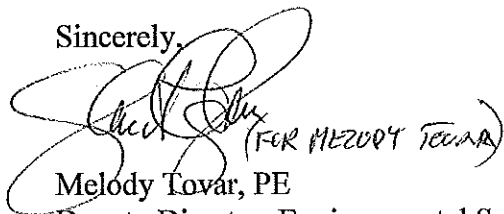
Dear Mr. Chee:

The City of San José appreciates the opportunity to comment on the proposed revisions to Appendix H on behalf of the San Jose/Santa Clara Water Pollution Control Plant. Our staff participated in the work group that developed the proposed revisions, and we appreciate the collaboration. The additional comments included below are intended to provide further clarification.

- On page H-2, 5), the second sentence includes a typographical error. The City recommends revision to read “The report shall contain, but is not limited to,…”
- On page H-7, 8) C v. and for page H-10 2) E, for clarification change the first sentence to “For violations/noncompliance identified in the reporting period,…”
- Regarding page H-1, 1) shown below, the addition of this language does not belong in Appendix H. Attachment D on page D-1, per Order No. R2-2009-0038 for San Jose/Santa Clara Water Pollution Control Plant National Pollutant Discharge Elimination System No. CA0037842, already has standard federal enforcement provisions.
 - “For violations of pretreatment requirements, the Discharger shall be subject to enforcement actions, penalties, fines and other remedies by the United States Protection Agency (USEPA) or other appropriate parties as provided by the Clean Water Act (Act).”

The City looks forward to continuing to work with the Regional Board staff on opportunities to refine and streamline permit language and to implement the pretreatment program.

Sincerely,



(FOR MELUOY TOVAR)

Melody Tovar, PE
Deputy Director, Environmental Services
City of San José



January 25, 2011

Mr. Michael Chee
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Via e-mail to mchee@waterboards.ca.gov

Subject: Tentative Order Modifying Attachment H

Dear Mr. Chee,

On behalf of the Bay Area Clean Water Agencies (BACWA), we are writing to express our support for the Tentative Order Amending Waste Discharge Requirements for Dischargers with Pretreatment Program Requirements (Tentative Order). BACWA is a joint powers agency whose members own and operate the publicly owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over six million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals who protect the environment and public health.

For more than a year Water Board staff have worked with BACWA to identify possible efficiencies that could be gained from modifying the Pretreatment Program requirements contained in Attachment H of POTWs National Pollutant Discharge Elimination System Permits while retaining, and even enhancing, the Water Board's oversight of the region's Pretreatment Programs. BACWA appreciates the receptivity of Water Board staff and the collaborative process established to achieve these goals. The proposed Attachment H modifications streamline the pretreatment reporting requirements and clarify the standards in a manner that enables BACWA members, and Water Board staff, to direct their limited resources toward meeting the ultimate goal of the Pretreatment Program: controlling potential pollutant sources. Accordingly, BACWA recommends the proposed Attachment H modifications be adopted.

Sincerely,

A handwritten signature in black ink that reads "Amy Chastain".

Amy Chastain
Executive Director
Bay Area Clean Water Agencies

Michael Chee - Re: Fwd: Regional Water Board Tentative Order amending current pretreatment program requirements

From: <Silva.Keith@epamail.epa.gov>
To: Michael Chee <MChee@waterboards.ca.gov>
Date: 2/3/2011 12:13 PM
Subject: Re: Fwd: Regional Water Board Tentative Order amending current pretreatment program requirements
Attachments: Att H Pretreatment Revisions TO Package.pdf

Hi Mike:

Here are my comments:

1. Throughout the document, there are references to industrial users (IUs). All of these references should be replaced with the term "nondomestic users." The scope of the Clean Water Act and the 403 regs is that pretreatment applies to nondomestic users. Using the term "IUs" appears to limit the program to "industry" and exclude other nondomestic sources such as the commercial sector. Our EPA Region 9 standard pretreatment language uses "nondomestic users" throughout.
2. For item No. 2 on page H-1, the first sentence should be modified to include at the end the sentence: "with timely, appropriate and effective enforcement actions. This language appears in the EPA Region 9 standard pretreatment language. This addition reflects U.S. EPA's enforcement expectations of POTWs in their enforcement response plans under 40 CFR 403.8(f)(5). Through audits and inspections we have found that many POTWs have weak enforcement programs and this provision helps address that issue.
3. Section 8 on page H-6 should require POTWs to identify whether SIU violations were for categorical standards or local limits. See the EPA Region 9 standard pretreatment language.
4. The EPA Address on page H-12 should include my name instead of the Regional Administrator.
5. The influent and effluent sampling requirements in Section 2 on page H-13 should allow for staggered influent and effluent sampling to account for treatment plant detention time.

Thanks for the opportunity to review this package. If you have any questions or would like to discuss, please call me at 415.972.3509.

Regards, Keith Silva

APPENDIX C

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

RESPONSE TO WRITTEN COMMENTS

**Updated Pretreatment Program Provisions—
Amendment of Attachment H of 28 NPDES Permits**

We received five comment letters on the tentative order circulated for public review. Below, we provide a brief introduction of the party's comments, followed by our response.

1. San Francisco Baykeeper, dated January 26, 2011
2. City of Sunnyvale, dated January 19, 2011
3. City of San Jose, dated January 27, 2011
4. Bay Area Clean Water Agencies, dated January 25, 2011
5. United States Environmental Protection Agency (USEPA), February 3, 2011 (late submission)

Interested persons should refer to the original letters to ascertain the full substance and context of each comment. Revisions to the tentative order are indicated below with underline for additions and ~~strikeout~~ for deletions.

(Note: In addition to revisions to the tentative order and Attachment H in response to comments, we made additional minor formatting and editing revisions as necessary for clarity.)

SAN FRANCISCO BAYKEEPER

***Baykeeper Comment 1
Compliance Period***

Finding 6.a.1) of the Tentative Order (TO) states that the Attachment H revisions are needed to grant a compliance period and extension option “for implementation of a new federal pretreatment regulatory rule that may come into effect.” However, the new Attachment H would go beyond revisions that “may come into effect,” and could be read to apply to existing regulations, stating that the discharger has six months to comply “[w]here Part 403 or subsequent revision places mandatory actions upon the Discharger...” (Attachment H on page H-1.) By applying the compliance time period to “Part 403 or subsequent revision,” (emphasis added) this revision to Attachment H is broader than the scenario described in the TO. If the purpose of the revised Attachment H is to provide existing permittees an additional six or twelve months to comply with existing requirements, the TO should be revised and recirculated to provide the public with the appropriate context to comment on the proposed permit revisions. Otherwise,

Attachment H should be revised to only apply a new compliance period to regulatory requirements that have yet-to-be-adopted.

In addition, finding 6.a.1) of the TO provides only one explanation for the proposed change to include an optional six month extension: “because it can take more than 6 months for the Discharger to complete the ordinance process.” However, the revised Attachment H would grant an extension under a broader set of circumstances, “due to sewer use ordinance modifications or other substantial pretreatment program modifications.” (emphasis added.) Such “other substantial pretreatment program modifications” goes far beyond time needed merely for “ordinance modifications.” Again, if the purpose of the Appendix H revisions is to provide extensions for situations other than ordinance delays, the TO should so state this purpose, for public review and comment. Otherwise, Attachment H should be revised to only provide an extension option for necessary delays in an ordinance adoption process, and not for more general “substantial pretreatment program modifications.”

Response to Baykeeper Comment 1

We agree that as originally proposed, the compliance extension could be interpreted to apply to existing regulations. However, our intention was for the extension to apply only to future revisions to Part 403. Therefore, for clarity, we revised Provision 1, first paragraph of Attachment H as follows:

1. The Discharger shall be responsible and liable for the performance of all Control Authority pretreatment requirements contained in 40 CFR 403, including any regulatory revisions to Part 403. Where a Part 403 ~~or~~ subsequent revision is promulgated after the effective date of the Discharger’s permit and places mandatory actions upon the Discharger as Control Authority but does not specify a timetable for completion of the actions, the Discharger shall complete the required actions within six months from the issuance date of this permit or six months from the effective date of the Part 403 revisions, whichever comes later....

Also, the intent of this revision to Attachment H is to grant an extension to the Discharger if it cannot complete the required actions within the proposed six-month period because it needs extra time to process local adoption of sewer use ordinance modifications or other pretreatment program substantial modifications. Both the tentative order and its revised Attachment H do not reflect this intent. Therefore, to provide clarification, we have revised the tentative order and Attachment H as follows:

Tentative Order

- 6.a.1) Attachment H, Provision 1 authorizes the Regional Water Board’s Executive Officer to grant a short extension of no greater than six months beyond an original six-month period for implementation of a new federal pretreatment regulatory rule that may come into effect during the term of the Discharger’s permit. This short extension would be granted if the

Discharger demonstrates that it needs additional time to process local adoption of sewer use ordinance modifications or other pretreatment program substantial modifications. For example, ~~such as to adopt a new sewer use ordinance.~~ ~~T~~ this revision was included because it can take more than 6 six months for the Discharger to complete the sewer use ordinance modification adoption process.

Attachment H (Provision 1, second paragraph)

1. ... (If the Discharger cannot complete the required actions within the above six-month period due to the need to process local adoption of sewer use ordinance modifications or other substantial pretreatment program modifications, the Discharger shall notify the Executive Officer in writing at least 60 days prior to the six-month deadline. The written notification shall include a summary of completed required actions, an explanation for why the six-month deadline cannot be met, and a proposed timeframe to complete the rest of the required actions as soon as practical, but not later than within twelve months of the issuance date of this permit or twelve months of the effective data of the Part 403 revisions, whichever comes later. The Executive Officer will notify the Discharger in within 30 days of receiving the request if the extension is not approved.)...

***Baykeeper Comment 2
Enforcement***

Section 1, paragraph 3, should be revised to say “The USEPA, ~~and/or,~~ the State, and/or other appropriate parties, may initiate enforcement action against an Industrial User (IU) for noncompliance with applicable standards and requirements as provided in the Act.” This revision provides consistency with the preceding sentence in the paragraph, and consistency with the Clean Water Act.

Response to Baykeeper Comment 2

The “preceding sentence” that Baykeeper is alluding to in its comment has been removed from the revised Attachment H as discussed in our Response to San Jose Comment 3 (see below). However, since any citizen can file suit against any violator of the Clean Water Act, we have revised Provision 1 of Attachment H as requested to reflect the intent of this comment as follows (Note: This revision includes changes as a result of San Jose Comment 3 and USEPA Comment 1):

Attachment H (Provision 1, third paragraph)

1. ~~For violations of pretreatment requirements, the Discharger shall be subject to enforcement actions, penalties, fines and other remedies by the United States Environmental Protection Agency (USEPA) or other appropriate parties, as provided in the Clean Water Act (Act).~~ The United States Environmental Protection Agency (USEPA), and/or the State, and/or other appropriate parties, may initiate enforcement action against

an ~~Industrial User (IU)~~ nondomestic user for noncompliance with applicable standards and requirements of the Clean Water Act (Act).

***Baykeeper Comment 3
Monitoring and Reporting***

Baykeeper understands the need to cut down on unnecessary and voluminous paper work, and, therefore, the efficiencies gained by the proposed changes to the reporting requirements in revised Appendix H. While we are supportive of the revised reporting requirements, we would propose, for the sake of clarity and good recordkeeping, that Appendix H be further revised to state that each agency must maintain, and make publically (sic) available upon request, detailed information previously required to be submitted via report. (See deleted information in Attachment H at H-5, H-6, H-8, H-9, H-10, H-14, and H-15.) We request this revision simply so that, by deleting the duty to provide this information in a report, the amendment to Appendix H is not read to change the requirement that such reports be based on such detailed information, and that such information must be available upon request to verify the accuracy of any report.

Response to Baykeeper Comment 3

First we are assuming that Baykeeper’s reference to “Appendix H” should instead be referencing “Appendices H-1, H-2 and H-4.” As to the comment, we agree to the extent that deleted information on the cited pages is now not required to be included in the submitted reports. Specifically, the deleted information noted on pages H-8, H-10, H-14 and H-15 will be required to be available upon request. However, the deletions noted on pages H-5, H-6, and H-9 have been reworded as part of the revised Attachment H and would still be required to be submitted in the pretreatment reports.

Therefore, we have revised the following Attachment H pages H-8, H-10, H-14, and H-16 as follows:

Page H-8

11. Pretreatment Program Budget

This section shall present the budget spent on the Pretreatment Program. The budget, either by the calendar or fiscal year, shall show the total expenses required to implement the pretreatment program. A brief discussion of the source(s) of funding shall be provided. In addition, the Discharger shall make available upon request specific details on its pretreatment program expense amounts such as for personnel, equipment, and chemical analyses.

Page H-10

1. Influent, Effluent and Biosolids Monitoring

The influent, effluent and biosolids monitoring results shall be evaluated in preparation of this report. The Discharger shall retain analytical laboratory reports with the QA/QC data validation and make these reports available upon

request. The Discharger shall also make available upon request a description of its influent, effluent and biosolids sampling procedures. Violations of any parameter that exceed NPDES limits shall be identified and reported. The contributing source(s) of the parameters that exceed NPDES limits shall be investigated and discussed.

Page H-14

2A) Sampling Procedures, Sample Dechlorination, Sample Compositing, and Data Validation (applicable quality assurance/quality control) shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. The Discharger shall make available upon request its sampling procedures including methods of dechlorination, compositing, and data validation.

Page H-15

- Sampling Procedures and Data Validation (applicable quality assurance/quality control) shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. The Discharger shall make available upon request its biosolids sampling procedures and data validation methods.

CITY OF SUNNYVALE

Sunnyvale Comment 1

Appendix H-1, first sentence, change February 28th to the last day of February each year to be consistent with Attachment H, Section 4 last sentence. On leap years these two sections would be in conflict of a due date.

Response to Sunnyvale Comment 1

We thank the City for pointing out the inconsistency. However, instead of revising Appendix H-1, we will revise Attachment H, Section 4 for clarity and to set a consistent due date of February 28 for the pretreatment annual report. Thus, we revised the last sentence of Attachment H, Section 4 as follows:

“...The annual report is due each year on ~~the last day of February 28~~each year.”

Sunnyvale Comment 2

Appendix H-2, Section 2, second sentence add “semiannual” to describe the reporting period. The previous reporting period is the Annual Report and may be mistaken that the entire previous year must be reported.

Response to Sunnyvale Comment 2

We agree and have revised Appendix H-2 as requested.

Sunnyvale Comment 3

Appendix H-4, Section 2, revise title to “Influent and Effluent Monitoring” instead of “Required Monitoring Test Methods.” This title is a better description of the section since all but the first two sentences are specific to influent and effluent monitoring. The section also discusses sampling procedures, data validation and results in addition to the test methods. The proposed section title is consistent with the original title.

Response to Sunnyvale Comment 3

We agree and have revised Appendix H-4 as requested.

Sunnyvale Comment 4

Appendix H-4, Section 2, second paragraph change “sampled” to “samples.”

Response to Sunnyvale Comment 4

We agree and have revised Appendix H-4 as requested.

Sunnyvale Comment 5

Appendix H-4, Section 2, third paragraph change “report” to “results.” Using the word “report” gives the impression a separate Influent and Effluent Monitoring Report is required, rather than including the results as part of the Pretreatment Annual Report, or that the laboratory reports should be submitted, which is inconsistent with the Annual Reporting requirements in Appendix H-1, Section 5.

Response to Sunnyvale Comment 5

We agree and have revised Appendix H-4 as requested.

Sunnyvale Comment 6

Appendix H-4, Section 3, second sentence revise to be consistent with the influent and effluent monitoring section. The City of Sunnyvale’s biosolids pretreatment monitoring requirements in the Permit’s Monitoring and Reporting Program (MRP) are different than the influent and effluent requirements.

Response to Sunnyvale Comment 6

We thank the City for pointing out that its current NPDES permit’s MRP is not consistent with the proposed pretreatment biosolids requirements. The inconsistency involves

pretreatment program monitoring of volatile organic compounds (VOCs) and base/neutrals and acids extractable organic compounds (BNAs) in its influent and effluent, but not in its biosolids. As it turns out, this omission in monitoring was an error during the City's permit reissuance. We will be sending the City a letter reinstating the requirement of pretreatment program monitoring for VOCs and BNAs in its biosolids.

Sunnyvale Comment 7

Appendix H-4, Section 3, seventh paragraph change "report" to "results." Using the word "report" gives the impression a separate Biosolids Monitoring Report is required, rather than including the biosolids monitoring results as part of the Pretreatment Annual Report.

Response to Sunnyvale Comment 7

We agree and have revised Appendix H-4 as requested.

CITY OF SAN JOSE

San Jose Comment 1

On page H-2, Provision 5, the second sentence includes a typographical error. The City recommends revision to read, "The report shall contain, but ~~not~~ is not limited to,..."

Response to San Jose Comment 1

We agree and have revised page H-2, Provision 5, as recommended.

San Jose Comment 2

On page H-7, Section 8C)v. and for page H-10, Section 2E), for clarification change the first sentence to "For violations/noncompliance identified in the reporting period,..."

Response to San Jose Comment 2

We agree and have revised page H-7, Section 8C)v. and page H-10, Section 2E), as requested.

San Jose Comment 3

Regarding page H-1, the first sentence of the third paragraph of Provision 1, the proposed revision does not belong in Appendix H. Attachment D on page D-1, per Order No. R2-2009-0038 for San Jose/Santa Clara Water Pollution Control Plant National Pollutant Discharge Elimination System No. CA0037842, already has standard federal enforcement provisions.

The first sentence of the third paragraph of Provision 1 reads as follows:

“For violations of pretreatment requirements, the Discharger shall be subject to enforcement actions, penalties, fines and other remedies by the United States Protection Agency (USEPA) or other appropriate parties as provided by the Clean Water Act (Act).

Response to San Jose Comment 3

First we are assuming that the City meant “Attachment” H instead of “Appendix” H. We agree with the City’s comment. This is a duplicative requirement of Attachment D (Federal Standard Provisions) for which all Dischargers must comply and is part of each of the Discharger’s respective NPDES permit. Also, the “Pretreatment Program Special Provisions for POTWs” in each of the Discharger’s respective NPDES Permit contains a similar sentence which is as follows:

If the Discharger fails to perform the pretreatment functions, the Regional Water Board, the State Water Board, or USEPA may take enforcement actions against the Discharger as authorized by the CWA.

Therefore, to eliminate duplicative statements, we have revised the first sentence of the third paragraph of Provision 1 on page H-1 as requested. See Response to Baykeeper Comment 2.

BAY AREA CLEAN WATER AGENCIES (BACWA)

BACWA Comment

BACWA expresses its support for the Tentative Order Amending Waste Discharge Requirements for Dischargers with Pretreatment Program Requirements. For more than a year Water Board staff have worked with BACWA to identify possible efficiencies that could be gained from modifying the Pretreatment Program requirements contained in Attachment H of POTWs National Pollutant Discharge Elimination System Permits while retaining, and even enhancing, the Water Board’s oversight of the region’s Pretreatment Programs. BACWA appreciates the receptivity of Water Board staff and the collaborative process established to achieve these goals. The proposed Attachment H modifications streamline the pretreatment reporting requirements and clarify the standards in a manner that enables BACWA members, and Water Board staff, to direct their limited resources toward meeting the ultimate goal of the Pretreatment Program: controlling potential pollutant sources. Accordingly, BACWA recommends the proposed Attachment H modifications be adopted.

Response to BACWA Comment

Comment noted.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA)

USEPA comment 1

Throughout the document, there are references to “industrial users (IUs)”. All of these references should be replaced with the term “nondomestic users.” The scope of the Clean Water Act and the 40 Code of Federal Regulations (CFR) 403 is that pretreatment applies to nondomestic users. Using the term “IUs” appears to limit the program to “industry” and exclude other nondomestic sources such as the commercial sector. Our EPA Region 9 standard pretreatment language uses “nondomestic users” throughout.

Response to USEPA Comment 1

We agree that the pretreatment requirements generally apply to nondomestic users and have replaced “industrial users” with “nondomestic users” in Attachment H on the following pages: page H-1, provisions 1, 2, and 3C; page H-3, section 2A); and page H-4, section 4).

Because the general term “industrial user” is different than the terms “significant industrial user or SIU” and “categorical industrial user or CIU,” we have not changed the use of SIU and CIU in Attachment H. SIU and CIU are appropriate when used consistent with the federal pretreatment regulations. This occurs when they are used to classify an indirect discharger that requires the publicly owned treatment works to issue a control mechanism to the SIU/CIU to ensure compliance with applicable pretreatment standards and requirements. Also, our proposed use of SIU/CIU in Attachment H is consistent with USEPA Region 9’s standard pretreatment language documents.

Finally, because of this comment, we found an error on page H-5, the first sentence of section 7 of Attachment H. Since this section of Attachment H is discussing “SIUs,” we have revised this section as follows:

7) Updated List of Regulated SIUs

This section shall contain a list of all of the federal categories that apply to SIUs regulated by the Discharger...

USEPA comment 2

For provision 2 on page H-1, the first sentence should be modified to include at the end of the sentence: “with timely, appropriate and effective enforcement actions.” This language appears in the EPA Region 9 standard pretreatment language. This addition

reflects USEPA's enforcement expectations of POTWs in their enforcement response plans under 40 CFR 403.8(f)(5). Through audits and inspections we have found that many POTWs have weak enforcement programs and this provision helps address that issue.

Response to USEPA Comment 2

We agree and have revised provision 2 on page H-1 as requested.

USEPA comment 3

Section 8 on page H-6 should require POTWs to identify whether SIU violations were for categorical standards or local limits.

Response to USEPA Comment 3

The change requested is not necessary because it is already addressed in Attachment H in the last sentence of the introductory paragraph to Section 8B) on page H-6. Section 8B) reads as follows:

- 8B) Enforcement Summary: This section shall contain a summary of SIU compliance and enforcement activities during the reporting year. The summary may be included in the summary table developed in section 8A and shall include the names and addresses of all SIUs affected by the actions identified below. For each notice specified in enforcement action “i” through “iv,” indicate whether it was for an infraction of a federal or local standard/limit or requirement.

USEPA comment 4

The EPA address on page H-12 should include “Keith Silva” instead of the Regional Administrator.

Response to USEPA Comment 4

We agree that the pretreatment reports sent to EPA Region 9 should be mailed to the appropriate department for processing rather than the Regional Administrator. Therefore, for clarification we have revised the mailing address on page H-12 as follows:

~~Regional Administrator~~ Pretreatment Program Reports
~~United States Environmental Protection Agency~~
~~Region 9, Mail Code: WTR-7~~
Clean Water Act Compliance Office (WTR-7)
Water Division
Pacific Southwest Region
U.S. Environmental Protection Agency

75 Hawthorne Street
San Francisco, CA 94105-3901

USEPA comment 4

The influent and effluent sampling requirements in Section 2 on page H-13 should allow for staggered influent and effluent sampling to account for treatment plant detention time.

Response to USEPA Comment 5

We agree. One of the reasons for taking influent and effluent samples is to obtain data to determine representative treatment plant pollutant removal efficiencies, which are a critical aspect of local limits development. By taking staggered influent and effluent samples to account for treatment plant detention time, the Discharger can obtain data to ensure that derived removed efficiencies reflect representative treatment plant performance. Thus, we have revised Appendix H-4, section 2, first sentence of the second paragraph on page H-13 as follows:

The influent and effluent samples should be taken at staggered times to account for treatment plant detention time during the same 24-hour period. Appropriately staggered sampling is considered consistent with the requirement for collection of effluent samples coincident with influent samples in Section III.A.3.a.(2) of Attachment D.